

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

LEANNA K.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Real Party in Interest.

D055944

(San Diego County  
Super. Ct. No. SJ11934)

PROCEEDINGS for extraordinary relief after reference to a Welfare and  
Institutions Code section 366.26 hearing. Gary M. Bubis, Judge. Petition denied.

Leanna K. seeks writ review of orders terminating her reunification services  
regarding her child, George A., and referring the matter to a Welfare and Institutions

Code section 366.26 hearing.<sup>1</sup> She contends the finding that returning George to her care would create a substantial risk of detriment was not supported by substantial evidence and was based only on speculation. She notes she was safely parenting her younger child. We deny the petition.

#### FACTUAL AND PROCEDURAL BACKGROUND

On January 16, 2008, the San Diego County Health and Human Services Agency (the Agency) petitioned on behalf of five-month-old George under section 300, subdivision (b), alleging he was at risk because his father, George A., Sr., (the father) used illicit drugs and engaged in domestic violence against Leanna when George was nearby. Leanna was 17 years old at the time.

George was taken into protective custody when Leanna was arrested for violating conditions of her juvenile probation. Leanna told the social worker about having sexual relations with three different men during her relationship with the father and about him beating her while he was high on methamphetamine. The members of Leanna's immediate family could not be considered for placement because they all have criminal, drug abuse and/or child welfare histories.

On March 10, 2008, the court found the allegations of the petition true as amended, declared George a dependent of the court, placed him in foster care and ordered Leanna to comply with the terms of her case plan and to participate in the Substance

---

<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

Abuse Recovery Management System (SARMS). The court ordered liberal supervised visitation and gave the Agency discretion to expand visitation.

The social worker reported Leanna began a SARMS program in February 2008. She attended a domestic violence support group and subsequently successfully completed both a parenting class and her SARMS program. Leanna's therapist reported Leanna was committed to reunifying with George, but had to contend with generations of drug abuse and Child Protective Services (CPS) involvement in her family. The foster mother reported supervised visits were successful and George and Leanna appeared bonded to each other. At the six-month and 12-month review hearings, the court continued services.

In October 2008 the social worker learned the father had been visiting Leanna's home in violation of a restraining order. Leanna protested she was never there when he visited, but later she told the social worker he had followed her home and attacked her. In November she began a relationship with a new boyfriend, who has a criminal history. She became pregnant again. By January 2009 she had a different boyfriend. In February Leanna met a new boyfriend at an NA meeting and in April she moved from the confidential shelter where she had been staying to live with him. This man had earlier been arrested for domestic violence and driving under the influence.

In June 2009 Leanna moved to Big Bear, California. On July 12 she gave birth to her second son, Johnny. She appeared able to care for the breathing problems he displayed at birth, and the social services agency there did not intervene to remove

Johnny or offer services. In September Leanna reported she had registered for a domestic violence group and therapy in Big Bear.

At the 18-month permanency review hearing on September 17, 2009, the current social worker testified it was the Agency's position that it would have been beneficial for the social services agency in Big Bear to either offer voluntary services to Leanna or to detain Johnny because Leanna had made only marginal progress in services in George's dependency case. She said although Leanna's drug test in May 2009 was negative, there were concerns she would relapse into drug abuse. She acknowledged Leanna had participated in services and there were no major concerns with her current home. The social worker said it had been difficult to monitor Leanna's progress after she moved to Big Bear.

The social worker's supervisor testified Leanna's therapist said Leanna continued not to take responsibility, blamed others for her situation and had some boundary issues. She said Leanna had not gained insight into the significant issues that led to George's removal from her care in that since November 2008 she had entered into relationships with several different men who had criminal, substance abuse, or domestic violence backgrounds and about whom she knew little. She acknowledged Leanna's current residence appeared appropriate for Johnny.

Leanna testified she lived with Johnny in Big Bear, was not currently seeing any man and had never had any domestic violence incidents with anyone but the father. She said she had a better support system in Big Bear, had obtained her own home and traveled to San Diego every other week to visit George. She testified she had not used

any illicit substances since using cocaine in May 2008, she had graduated from SARMS and she had always been willing to drug test. She testified she had completed a domestic violence program, had been in therapy and had made arrangements to resume therapy and domestic violence classes in Big Bear.

After considering the documentary evidence, testimony and argument, the court found returning George to Leanna's custody would cause a substantial risk of detriment. It terminated services and set a section 366.26 hearing.

Leanna petitions for review of the court's orders. (§366.26, subd. (l); Cal. Rules of Court, rule 8.452.) This court issued an order to show cause, the Agency responded and the parties waived oral argument.

## DISCUSSION

Leanna contends substantial evidence does not support the finding that returning George to her care would cause a substantial risk of detriment. She argues she has ameliorated the risks that led to his dependency, and, although she had at times sabotaged herself during the case by beginning relationships with unsuitable men, she had participated in the services provided and cooperated with the Agency. She notes she is successfully parenting Johnny and protests it was only speculation to say she might relapse just because she is relying on family members with substance abuse histories.

### A. *Legal Authority*

A reviewing court must uphold a juvenile court's findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) "[W]e must indulge all reasonable inferences to support the findings of the

juvenile court [citation], and we must also ' . . . view the record in the light most favorable to the orders of the juvenile court.'" (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.) The appellant bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

Section 366.22, subdivision (a) provides in part:

"The court shall order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child."

The court is required to consider the parent's past conduct as well as present circumstances. (*In re Troy D.* (1989) 215 Cal.App.3d 889, 900.)

#### B. *Application*

Leanna has not shown a lack of substantial evidence to support the court's finding that returning George to her custody would create a substantial risk of detriment. After George was removed from her care, she began participating in reunification services, and the social worker reported she was making good progress. However, during the course of George's dependency Leanna's readiness to begin relationships and move in with various unsuitable men caused serious concern about whether she would be able to provide a safe home for George. Ten months after George was removed from her care, it became evident she was having contact with the father. Then, he attacked her and was incarcerated. She moved to a shelter, began vocational training and was having unsupervised visitation. But the next month she began a relationship with a man with a criminal background whom she barely knew and she became pregnant. She then left that

boyfriend and moved to live with a friend, then moved to a shelter only to begin a new relationship with another man with a criminal history. In February 2009 she began a relationship with a man with a domestic violence history she met at an NA meeting and by April had left the shelter to live with him.

Although Leanna had participated in services and appeared to have resolved her drug abuse problems, there was concern that within a relatively short time she had been involved with several men with troublesome backgrounds and by her late teens had had two children by two different men. The situation in Big Bear also was of concern because her family members who lived there had histories of substance abuse and domestic violence. At the time of the hearing she had been in Big Bear for only two months and had not yet participated in any services. The court's finding that returning George to Leanna's custody is well supported by her history of sabotaging her progress and her apparent continuing lack of insight into domestic violence shown by her repeatedly involving herself with unsuitable men.

#### DISPOSITION

The petition is denied.

---

NARES, Acting P. J.

WE CONCUR:

---

HALLER, J.

---

AARON, J.